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STATE OF HAWAII
CAMPAIGN SPENDING COMMISSION
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February 16, 2011

TO: The Honorable Gilbert S.C. Keith-Agaran, Chair
House Committee on Judiciary

The Honorable Karl Rhoads, Vice-Chair
House Committee on Judiciary

Members of the House Committee on Judiciary

FROM: Kristin Izumi-Nitao, Executive Director *kei*
Campaign Spending Commission

SUBJECT: Testimony on H.B. No. 1575, Relating to Campaign Spending

Thursday, February 17, 2011
4:00 p.m., Conference Room 325

Thank you for the opportunity to testify on this bill. The Campaign Spending Commission ("Commission") has strong concerns regarding this bill.

This bill amends the pilot project which was legislatively enacted in 2008 which established a comprehensive public funding program for the Hawaii county council candidates beginning with the 2010 elections for three (3) election cycles if the Commission determined that there were sufficient funds in the Hawaii Election Campaign Fund ("HECF"). See, Act 244, SLH 2008 ("Act 244"). The Commission opposed this measure in 2008. As proposed, this bill raises the program cap from \$300,000 to \$560,000, repeals the requirement of a minimum of \$3.5 million in the HECF to provide comprehensive public funding, extends the period for signature collection, and clarifies the provision of matching funds. If enacted, the fiscal implications of this bill will strain the HECF and challenge existing Commission operations.

For purposes of our testimony, we would like to address the following:

Section 1 of the bill proposes to add an alternative funding mechanism to the Hawaii county council pilot comprehensive public funding program to allow certified candidates to qualify and apply for additional funding beyond their base funding. The proposal is an alternative to the equalizing funds provisions being repealed in Section 7 of this bill and in response to recent and future court decisions regarding the constitutionality of equalizing funds.¹ It would allow a

¹ McComish v. Bennett, 611 F.3d 510 (2010), is a 9th Circuit, U.S. Court of Appeals, case set for oral argument before the U.S. Supreme Court on March 28, 2011. The 9th Circuit held that the matching funds provision of

Hawaii county council certified candidate to receive a four for one match for every \$20 received from a qualified individual between sixty days prior to the primary election and one day before the general election up to a maximum of two hundred per cent of the base amount of public funding for a primary or general election. See Attachment 1. This matching payment concept is not new but a modified version of the partial public funding program which is currently in place where a candidate can receive a one for one match for qualifying contributions collected.

The Commission's concern is that this alternative funding mechanism provides no method or trigger which would allow a certified candidate to demonstrate a need for additional funding beyond their base funding. Currently, under Act 244, a certified candidate is only eligible for equalizing funds if a non-participating candidate's expenditures or contributions, whichever is greater, added to other considerations, exceeds one hundred per cent of a certified candidate's base funding. The trigger allows a certified candidate to demonstrate a need for additional funding to stay competitive with a non-participating candidate. Unfortunately, this issue of providing equalizing funding to a certified candidate based on the campaign financial activity of a non-participating candidate is at the center of recent court decisions preventing this proposed alternative funding mechanism from using that as a trigger. If this bill is passed, the Commission is concerned that a certified candidate will be prone to stockpiling public funds when there is no demonstrated need for the funding in the first place. As drafted, a candidate would only have to wait until sixty days prior to a primary election to start collecting qualifying small dollar contributions and applying for additional funding. The Commission strongly believes that this provision needs a trigger in place to ensure the integrity and the non-abuse or inappropriate use of public funds.

The Commission suggests changing "participating candidate" on page 1, line 5, and on page 2, line 1, to "certified candidate." A "participating candidate" as defined in section 2 of Act 244 has a different meaning from "certified candidate" also defined in section 2 of Act 244. The change would make it clear that a candidate has to be a certified comprehensive publicly funded candidate before seeking additional funding under this alternative funding mechanism. This change would also align with the language on page 2, line 14, that a qualified small dollar contribution means any contribution to a "comprehensive publicly funded candidate" who is a "certified candidate" and not a "participating candidate" who is defined as a "candidate who is seeking certification for comprehensive public funding." See, Act 244, section 2.

Arizona's Citizens Clean Elections Act did not violate the First Amendment, and therefore, was not unconstitutional. The matching funds provision ensured that if a candidate participating in the state's public campaign financing program had a non-participating opponent whose campaign expenditures or contributions exceeded a certain threshold, the participating candidate would receive matching funds from the state. In this case, the court held that the matching funds provision imposed only a minimal burden on First Amendment rights and that it survived intermediate scrutiny because it bears a substantial relation to the State's important interest in reducing *quid pro quo* political corruption.

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The Commission has concerns regarding the Commission payment of not later than two business days after the receipt of a report as suggested in Section 1 of this bill on page 1, lines 15-17. As proposed, this language conflicts with Act 244, section 12, subsection (f), as stated and noted in this bill on page 6, lines 18-21, which references Hawaii Revised Statutes ("HRS") §11-222 which was recodified in 2010 to HRS §11-431. HRS §11-431 provides that the Commission has twenty days to direct payment which is a more realistic and appropriate time frame for compliance. As drafted, two days is insufficient time to permit the Commission to: (1) verify with the Hawaii County Clerk's office the names of the "individuals who are registered voters who reside in the district in which the participating candidate is seeking nomination or election at the time the contribution is given" (see page 1, lines 8-10, of the bill); and (2) work with the Comptroller's office to procure the funds to make payments to the certified candidate. Although we can appreciate a certified candidate receiving matching payments not later than two business days, this is not possible or practicable when it comes to coordination of activities among separate agencies as well as current resources and a trust fund.

As for the reporting schedules stated on page 2, lines 4-9, which requires reports of qualified small dollar contributions to be filed: (1) "Once every week after the date that is sixty days prior to the primary election until the date that is twenty one days before the primary election" and (2) "Once every other day after the date that is twenty one days before the primary election until one day before the general election," the Commission is concerned that this schedule would create a backlog of applications and not permit the Commission to process payments in an orderly and timely manner. Accordingly, we suggest what is presently allowed under the partial public funding program. Hawaii Administrative Rules ("HAR") section 3-160-62(c) provides that "[a]pplications for funding shall not be submitted more frequently than every fourteen calendar days after the last filed application."

Section 2 of the bill adds a new definition for "qualified small dollar contribution," extends the qualifying period, and repeals the definition of "equalizing funds." With respect to defining "qualified small dollar contributions" as "the aggregate amount of which does not exceed \$20," the Commission would like to make two points: (1) the objective of comprehensive public funding can only be accomplished if these qualified small dollar contributions are deposited into the HECF, and therefore, there should be a requirement similar to "qualifying contributions" as stated in Act 244, section 2, that qualified small dollar contributions be "made in the form of a check or a money order payable to the [HECF]"; and (2) the difficulty it will be for the Commission to track multiple contributions from a single contributor that cannot exceed an aggregate amount of \$20.

With respect to extending the beginning date of the "qualifying period" to "November 15 of the year prior to the general election year" to permit candidates with additional time to collect qualifying contributions for certification as a comprehensively publicly funded candidate, the Commission prefers that the date be moved further back to September 5 of the year prior to the

general election year. This is because under Act 244, section 3, the Commission must make an announcement by September 5 of each odd numbered year before the general election that the comprehensive public funding program will be operative for the upcoming election year. The Commission suggests that candidates be allowed to collect qualifying contributions from the date that this announcement is made. Of course, the announcement would not be required if section 6 of this bill is passed which we strongly oppose to protect the sustainability of the Hawaii election campaign fund.

Section 3 of this bill addresses the declaration of intent to seek comprehensive public funding form to be filed with the Commission beginning November 15 of the year prior to the election year. For the reasons mentioned above, the Commission suggests that this be changed to September 5 of the year prior to the election year. A qualifying contribution cannot be collected until this form is filed so the change is necessary to allow a candidate to begin collecting qualifying contributions from September 5 of the year prior to the election year.

Section 4 of this bill proposes to add a deadline for when qualifying contributions can be collected, but it conflicts with the language in the definition of "qualifying period" on page 3, lines 3-4, of this bill. The proposed change provides that qualifying contributions cannot be collected "later than sixty days prior to the primary election," but the current deadline as provided in Act 244, section 2, is the "deadline for filing candidate nomination papers." These are two different dates. The Commission suggests that the proposed change in section 4 be deleted from the bill and the current deadline be used.

Section 5 of the bill seeks to raise the program cap from \$300,000 to \$560,000. Section 6 of the bill repeals section 3 of Act 244 which permits the Commission to assess whether there is a minimum of \$3.5 million in the HECF to provide comprehensive public funding. The Commission has concerns for both of these sections as it impacts HECF and current operations.

As you know, the HECF is a public trust fund which was created to enable taxpayers to designate \$3 (previously, \$2) from a portion of their income tax liability to the fund. See, HRS §11-421. It is from the HECF that public funds are provided to candidates that qualify for not only the comprehensive public funding for the Hawaii County Council but also partial public funding. It is also from the HECF that all Commission operations are paid for. It therefore represents the primary revenue source for Commission business and programming.²

Consequently, it is essential to discuss the impact to HECF if this bill were enacted. With a beginning balance of \$5 million on July 1, 2009, the closing balance of the HECF as of June 30, 2010 was \$4.6 million. The HECF balance has steadily been decreasing each fiscal year. HECF's revenue is generated by taxpayers designating \$3 from their state income tax to the

² Pursuant to Act 244, SLH 2008, the legislature reallocated the Commission's other revenue source of fines and penalties to the general fund.

fund. In the past five years, an average of \$203,000 has been designated to HECF as a result of this check-off. Interest earned on the principal yields about \$200,000. If the principal is reduced, the interest income is reduced. For 2010 elections, a total of \$188,286 was disbursed from the HECF to pay for twenty-two (22) qualifying candidates in the partial public funding program and a total of \$147,716 was disbursed from the HECF to pay for eight (8) qualifying candidates in the comprehensive public funding program for the Hawaii County Council pilot program. Accordingly, \$336,000 was expended to pay for the two public financing programs.³ To increase the cap from \$300,000 to \$560,000 as well as to repeal a determination of sufficient funding (i.e., a minimum of \$3.5 million) in the HECF and to adopt another funding mechanism to the Hawaii County Council pilot program of "qualified small dollar contributions," would strain the Commission's programs and operations.

If HECF funds are near depletion, HRS §11-422 provides:

(a) The commission shall be under no obligation to provide moneys to candidates if, in the partial public funding program or comprehensive public funding for elections to the county of Hawaii council, moneys in the Hawaii election campaign fund are near depletion.

(b) For the purpose of the partial funding program, if the Hawaii election campaign fund is close to depletion as determined by the commission, the commission shall determine the amounts available to eligible candidates based on their order of eligibility in qualifying for partial public funds, as determined by the date of filing of an application for public funds with the commission pursuant to section 11-428; provided that the application has been accepted by the commission.

(c) For the purpose of the comprehensive public funding for elections to the county councils, if the Hawaii elections campaign fund is close to depletion, the commission shall determine whether the program shall be operative in accordance with this part.

This bill in effect disregards the import of this statutory section and eliminates any safety mechanism when it comes to cost thereby jeopardizing the HECF.

The Commission understands that you may receive strong support for this bill. We would submit that the Hawaii County Council comprehensive public funding is a pilot project which is in its first year of implementation. We maintain that the reasons advocating and supporting this program such as, but not limited to, increasing the candidate pool and competitiveness as well as voter turnout, grass root initiatives, and citizen participation have yet to be evaluated and

³ An average of \$201,000 per election year over the last five elections was disbursed from the HECF to pay for qualifying candidates in the partial public funding program. This is the first year for the comprehensive public funding program so an average cannot be computed.

The Honorable Gilbert S.C. Keith-Agaran
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assessed to determine whether the program should be expanded as suggested by this bill. As a point of reference, twenty-two (22) candidates filed nomination papers to run for Hawaii county council in 2010 compared to twenty-eight (28) candidates who filed in 1998. The financial and

human resources associated with this bill which funded only eight (8) Hawaii county council candidates when the Commission oversaw and administered the campaign spending law for three hundred and forty-six (346) additional candidates is expensive and costly. We therefore strongly suggest that the prudent course is to review this program as it unfolds to permit lawmakers and taxpayers to make an informed decision as to the program's effectiveness. Alternatively, if this bill passes, the Commission recommends that funding be appropriated pursuant to HRS §11-421(b)(2) to properly fund and staff the additional program requirements.

HB 1575

Primary Election

District	2012 Primary Base	1 (Base only)	1 (B+100% A)	2 (Base only)	2 (B+100% A)	3 (Base only)	3 (B+100% A)	4 (Base only)	4 (B+100% A)
1	\$1,226.46	\$1,226.46	\$2,452.91	\$2,452.91	\$4,905.83	\$3,679.37	\$7,358.74	\$4,905.83	\$9,811.66
2	\$14,559.13	\$14,559.13	\$29,118.27	\$29,118.27	\$58,236.53	\$43,677.40	\$87,354.80	\$58,236.53	\$116,473.07
3	\$10,194.20	\$10,194.20	\$20,388.40	\$20,388.40	\$40,776.80	\$30,582.60	\$61,165.21	\$40,776.80	\$81,553.61
4	\$16,319.79	\$16,319.79	\$32,639.57	\$32,639.57	\$65,279.14	\$48,959.36	\$97,918.71	\$65,279.14	\$130,558.28
5	\$5,579.06	\$5,579.06	\$11,158.12	\$11,158.12	\$22,316.24	\$16,737.18	\$33,474.36	\$22,316.24	\$44,632.48
6	\$41,572.66	\$41,572.66	\$83,145.31	\$83,145.31	\$166,290.62	\$124,717.97	\$249,435.94	\$166,290.62	\$332,581.25
7	\$18,588.31	\$18,588.31	\$37,176.62	\$37,176.62	\$74,353.25	\$55,764.94	\$111,529.87	\$74,353.25	\$148,706.50
8	\$12,281.86	\$12,281.86	\$24,563.73	\$24,563.73	\$49,127.45	\$36,845.59	\$73,691.18	\$49,127.45	\$98,254.91
9	\$11,477.75	\$11,477.75	\$22,955.50	\$22,955.50	\$45,911.00	\$34,433.25	\$68,866.50	\$45,911.00	\$91,822.00
Total for Primary		\$131,799.22	\$263,598.44	\$263,598.44	\$527,196.87	\$395,397.65	\$790,795.31	\$527,196.87	\$1,054,393.74

General Election

District	2012 General Base	1 (Base only)	1 (B+100% A)	2 (Base only)	2 (B+100% A)	3 (Base only)	3 (B+100% A)	4 (Base only)	4 (B+100% A)
1	\$220.24	\$220.24	\$440.49	\$440.49	\$880.97	\$660.73	\$1,321.46	\$660.73	\$1,321.46
2	\$1,921.15	\$1,921.15	\$3,842.31	\$3,842.31	\$7,684.61	\$5,763.46	\$11,526.92	\$5,763.46	\$11,526.92
3	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
4	\$5,102.55	\$5,102.55	\$10,205.11	\$10,205.11	\$20,410.22	\$15,307.66	\$30,615.33	\$15,307.66	\$30,615.33
5	\$4,059.13	\$4,059.13	\$8,118.25	\$8,118.25	\$16,236.50	\$12,177.38	\$24,354.76	\$12,177.38	\$24,354.76
6	\$7,320.00	\$7,320.00	\$14,639.99	\$14,639.99	\$29,279.99	\$21,959.99	\$43,919.98	\$21,959.99	\$43,919.98
7	\$471.16	\$471.16	\$942.33	\$942.33	\$1,884.65	\$1,413.49	\$2,826.98	\$1,413.49	\$2,826.98
8	\$172.97	\$172.97	\$345.93	\$345.93	\$691.87	\$518.90	\$1,037.80	\$518.90	\$1,037.80
9	\$173.25	\$173.25	\$346.51	\$346.51	\$693.02	\$519.76	\$1,039.53	\$519.76	\$1,039.53
Total for General		\$19,440.46	\$38,880.92	\$38,880.92	\$77,761.84	\$58,321.38	\$116,642.75	\$58,321.38	\$116,642.75
Total for Both Elections		\$151,239.68	\$302,479.35	\$302,479.35	\$604,958.71	\$453,719.03	\$907,438.06	\$604,958.71	\$1,209,917.41

Legend

B = Base funding

100% A = 100% Additional funding

Yellow - 1 candidate receiving base funding only and 1 candidate receiving base funding plus 100% additional funding

Blue - 2 candidates receiving base funding only and 2 candidates receiving base funding plus 100% additional funding

Orange - 3 candidates receiving base funding only and 3 candidates receiving base funding plus 100% additional funding

Purple - 4 candidates receiving base funding only and 4 candidates receiving base funding plus 100% additional funding

Representative Gilbert SC Kenneth-Agaran, Chair
Representative Carl Rhoads, Vice Chair
Committee on Judiciary

Jennifer Ruggles
P.O. Box 794
Mt. View, HI 96771

Date: Thursday February 17, 2011
Subject: Support for H.B. 1575 Relating Campaign Spending

Please support H.B. 1575 concerning Big Islands public funding option for County Council elections. This bill would raise the program's monetary cap, extend candidate deadlines, remove the HECF minimum of 3.5 million to run the program, and adjust the matching funds mechanism as a preemptive measure protecting the program, all of which is necessary in the best interests of the Big Island community.

H. B. would raise the programs monetary cap of \$300,000 to \$560,000 because this cap needs to be raised. Last year eight candidates that qualified for public funding used \$150,000. If an election cycle were to exceed this cap it would be very problematic to candidates and to the integrity of the program so it makes sense to raise the cap to a safer amount. The amount \$560,000 would be enough money for approximately two publicly funded candidates in all of the Big Islands county council districts.

With the primary elections moving back one month next year, citizens will have less time to qualify, which is why this bill extends the deadline for qualifying from January to November.

Since the public funding program only uses about \$150,000 per election cycle, H.B. 1575 removes the requirement that the program's account must have a minimum of \$3.5 million. This money requirement should be removed not only because it is unrealistic, (a Big Island county council election would never exceed \$3.5 million in one cycle) but it could be unnecessarily stop the program for future election cycles.

Because Arizona's matching funds mechanism is currently being challenged, we're adjusting our matching funds mechanism as a preemptive measure because ours' is modeled after theirs. This bill adjusts the programs matching funds mechanism so that our program will not be challenged for the reason's Arizona's is. This is perhaps one of the most important purposes of the bill because it saves the public funding program in its entirety.

As a Big Island resident in the district of a publicly funded candidate I am very pleased with results. It seems that the nature of the program has allowed my council member the time to get to know the concerns of the people she represents and the inspiration to act on those concerns.

Currently, politicians are forced to spend too much time fundraising. With a public funding option they have the option to surpass fundraising by spending more time listening to their constituents. Since their constituents are the one's paying for their campaign to get elected, it seems these politicians are more accountable and connected to their community. The adjustments to this public funding option are necessary to the effectiveness and vitality of the program and serve the best interests of the future of our Big Island community. Please support H.B. 1575. Thank you for this opportunity to testify.

I like the fact that as not every person has the funds and connections to be able to run a campaign, they have the option to run on the power of ideas while be able to concentrate on connecting to their constituents instead of having to spend so much time fundraising.



Thursday, February 17, 2011, 4:00 PM
State Capitol, Conference Room 325

House Committee on Judiciary
Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair

Testimony in Strong Support of HB 1575 Relating to Campaign Spending

Chair Keith-Agaran, Vice Chair Rhoads and Members of the House Committee on Judiciary:

The Democratic Party of Hawai'i has expressed strong support for comprehensive public financing of elections at the last several State Conventions. At the 2010 Convention the convention body approved *Government Operations Resolution 2010-12: Strongly Urging Legislative Support for Permanent Comprehensive Public Funding for Elections*.

The passage of Act 244, public funding option for Big Island county council candidates, represented a success after many years of hard work conducted by Party members as well as other community groups. We support HB1575, as we believe it will improve Act 244.

Pono use of public resources, such as through a publicly funded campaign system, serves to include large numbers of citizens, particularly underrepresented constituencies, in the political process. While the Supreme Court may rule against one provision in the Arizona law, after which Act 244 was modeled, HB 1575 would provide a preemptive alternative to the matching funds mechanism in the Big Island law; thereby protecting it for the future.

Please help to improve upon publicly financed elections for Hawai'i County Council races by supporting HB 1575.

Respectfully submitted,

Doug Pyle & Joy Kobashigawa-Lewis, Co-Chairs
Legislation Committee of the State Central Committee,
Democratic Party of Hawai'i

Attachment:

Government Operations Resolution 2010-12: Strongly Urging Legislative Support for Permanent Comprehensive Public Funding for Elections.

GOV 2010-12 STRONGLY URGING LEGISLATIVE SUPPORT FOR PERMANENT COMPREHENSIVE PUBLIC FUNDING FOR ELECTIONS

Whereas, A democratic government derives its power from the consent of its citizens, and citizen participation in the political process is essential to the continuity of democracy; and

Whereas, Corporate and other special interest donations account for the vast majority of campaign donations, both locally and nationally; and

Whereas, Hawai'i's current election finance system suppresses the influence of individual citizens in favor of wealthy special interests in the following ways:

- Allows Hawai'i elected officials to accept large campaign contributions from private interests over which they have governmental jurisdiction;
- Undermines public confidence in the integrity of public officials;
- Costs average taxpayers millions of dollars annually in the form of subsidies and tax exemptions for campaign contributors;
- Drives up the costs of running for state office, discouraging otherwise qualified candidates who lack access to special interest funding;
- Requires that elected officials spend too much of their time raising funds rather than representing the public; and

Whereas, Publicly funded elections hold politicians accountable to community interests rather than to special interests; and

Whereas, A comprehensive publicly funded campaign finance system such as voter-owned elections has opened up elections to fair competition and greatly increased voter participation in Maine, Arizona, North Carolina, and as many as four other states; and

Whereas, Pono use of public resources, such as through a publicly funded campaign system, serves to include large numbers of citizens, particularly underrepresented constituencies, in the political process; and

Whereas, The Democratic Party of the State of Hawai'i promotes itself as being the "party of the people" and "One Person, One Vote" is a basic civil right; and

Whereas, These values are the basis for our Statement of Principles: aloha, kuleana, malama aina, ho'okipa, and pono-values that guide personal and professional conduct when in service to the community; and

Whereas, Such values resonate with the concept of publicly funded campaigns, political accountability to the community, pono use of resources, and greater participation by underrepresented constituencies in the political process; now, therefore

Be It Resolved, By the Democratic Party of Hawai'i that our State Legislators be urged to strongly support permanent comprehensive public funding for elections; and

Be It Further Resolved, That copies of this resolution be transmitted to members of Hawai'i's Congressional Delegation, the members of the Legislature, the Governor, and the County Councils of Hawai'i, Maui, Kaua'i, and Honolulu.



AMERICANS FOR DEMOCRATIC ACTION

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February 15, 2011

TO: Chair Gilbert Keith-Agaran, Vice Chair Karl Rhoads
Members of the House Committee on Judiciary

FROM: Americans for Democratic Action/Hawaii
Barbara Polk, Legislative Chair

TESTIMONY IN SUPPORT OF HB 1575 RELATING TO CAMPAIGN SPENDING

Americans for Democratic Action/Hawaii supports HB 1575 that seeks to amend the Hawaii public funding pilot project in response to the experience of the first implementation of the project as well as changes in the legal environment nationally. We continue to strongly support public financing of elections as a means to encourage greater trust in elected officials, greater opportunity to run for office, and a more vital and participatory democratic process.

Two years ago the legislature enacted Act 244 providing for a pilot project of voluntary public funding for candidates for the Hawaii County Council over three election cycles, the first of which was completed with the Fall 2010 elections. That cycle went very well and ameliorated several concerns that had preceded the law's passage. Sixteen candidates filed an "intent to qualify," eight qualified for public funding, and four of those won their elections—three incumbents and one challenger.

The total amount spent in the 2010 election cycle was less than \$148,000. Currently the Hawaii Election Campaign Fund (HECF) balance is over \$4.5 million. As a result, the requirement that the fund contain \$3.5 million before the pilot can run is unnecessary; this bill seeks to remove it.

Similarly, there is currently a cap of \$300,000 in HECF money that can be used in any election cycle. This bill seeks to raise that ceiling to \$560,000 to allow approximately enough money for two publicly funded candidates in each of the nine Big Island county council districts. This change would help avoid the problems that would occur for the candidates and the Campaign Spending Commission if the ceiling were to be reached.

The major change proposed in this bill is the introduction of a matching fund process to replace

the current equalizing funds. Once a candidate has qualified for public funding by collecting small donations of \$5 or less, he or she receives a base amount of public funds. If their opponent spends more money than that, the current pilot project allows the publicly funded candidate to receive equalizing funds from HECF. A case currently before the Supreme Court of the United States is likely to rule equalizing funds unconstitutional. As a result, this bill seeks to change to a matching process in which a candidate who has qualified for public funding can continue to raise small donations of \$20 or less that will be matched by public funds on a four to one basis (that is, \$80 for every \$20 raised) up to a ceiling of twice the amount of the base funding. This change allows a hedge against a very well financed opponent, while keeping to the spirit of restricting campaign donations to a very low level and only from residents of the district. The ceiling will ensure that no candidate can receive extravagant amounts of public funding through the matching process.

Finally, given changes in the timing of primary elections, the date for declaring intent to qualify is moved back from January 1 to November 1 of the preceding year to allow candidates sufficient time to attempt to qualify for public funding.

We believe these changes are consistent with the legislature's decision two years ago to run a pilot public funding program and we urge you to pass HB 1575.



Hawaii
COMMON CAUSE
Holding Power Accountable

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House JUD Committee
Chair Gilbert Keith-Agaran, Vice Chair Karl Rhoads

Thursday 2/17/11 at 4:00 PM in Room 325
HB 1575 – Publicly funded elections

TESTIMONY

Nikki Love, Executive Director, Common Cause Hawaii

Chair Keith-Agaran, Vice Chair Rhoads, and Committee Members:

Common Cause Hawaii supports HB 1575, which would improve the Hawaii County publicly funded elections pilot program.

In 2008, the legislature enacted this important pilot program for comprehensive public funding for Hawaii County Council candidates. In the 2010 election, the first cycle proved to be an initial success, and this bill now aims to make a few improvements as the pilot continues.

One of the most important elements in this bill is the matching funds provision. Currently, the law is set up to provide participating candidates with *equalizing funds* in the scenario that they are outspent by a nonparticipating opponent. However, in anticipation of possible U.S. Supreme Court actions, many experts and advocates around the nation are pursuing a new *matching funds* system instead. Matching funds would allow participating candidates to raise small donations and receive a 4-to-1 match in public funding. This is a sound way to address the issues of equalizing funds and maintain the integrity of the program.

We urge the Committee to pass this bill and strengthen the publicly funded elections program for Hawaii County.

Mahalo for the opportunity to submit testimony.

Representative Gilbert S.C. Keith-Agaran, Chair
Representative Karl Rhoads, Vice Chair
Committee on the Judiciary

Kory Payne
Voter Owned Hawaii
3442 Waiialae Ave, Ste #8
Honolulu, HI 96816

Thursday, February 17, 4:00 pm

Strong support for HB 1575, Relating to Campaign Spending

Voter Owned Hawaii is a non partisan, non profit organization advocating for the upgrade and modernization of Hawaii's partial public funding option. The following organizations have endorsed the policy handle that makes up the pilot program on the Big Island: AARP; Local 5, SEIU (national); AFL-CIO (national); Sierra Club, Hawaii; League of Women Voters; Common Cause, Hawaii; Americans for Democratic Action, Hawaii Chapter; Defend Oahu Coalition; Life of the Land; Democracy for America; Dr. Martin Luther King Jr. Committee; Waikiki Area Residents Association; Envision Hawaii; Kanu Hawaii; Malama Hawaii; Sustain Hawaii; Conservation Council for Hawaii; Hawaii Women's Coalition; Interfaith Alliance Hawaii; Surfrider Foundation, Oahu Chapter.

Background

In 1978, delegates and voters created Hawaii's partial public funding program and the Hawaii Election Campaign Fund (which is paid for by the voluntary check off on state income tax forms).

Unfortunately, this program is outdated and ineffective. The current public funding program, overall, does not provide a competitive amount of money to participating candidates.

In 2008, Hawaii became the ninth state in the U.S. to implement a form of what is called Fair Elections, or Clean Elections -- a more comprehensive public funding option for candidates. In 2008, HB 661 CD1 created Act 244. Act 244 is a pilot program for Fair Elections for Big Island county council races for the elections in 2010, 2012, and 2014.

The 2010 Elections and the Big Island pilot program

In the 2010 elections, 16 candidates filed an "intent" to qualify for public funds. To qualify, candidates have to collect 200 signatures from registered voters in the district for which they're running, and each signature must be accompanied with a five dollar check or money order.

Of the 16 candidates who filed an "intent" to qualify, eight candidates actually qualified; and of those eight, four won their races. Three of the winning candidates were incumbents, and one was a challenger.

Hawaii Election Campaign Fund, Public Funding a Taxpayer Savings Investment

We firmly believe it's blatantly obvious that if private interests continue to fund our elections, taxpayers will end up footing the bill for bad decisions. For example, how do we calculate the costs of laws that have lead Hawaii to the reality in which 90% of our energy comes from imported fossil fuels, and 90% of our food comes from outside Hawaii? Imagine the triple bottom line benefits for Hawaii's economy if only a fraction of those two quantifications are redirected to come from Hawaii-based businesses. The numbers are likely staggering.

Act 244, regardless of the above argument, is not a strain on the Hawaii Election Campaign Fund. The total cost for the 2010 (two-year) election cycle was under \$175,000. The current balance of the HECF is approximately \$4.5 million.

HB 1575

1. Matching funds mechanism: Next month the Justice Roberts-lead USSC will likely rule against the matching funds mechanism in their Clean Elections law, after which we modeled Act 244. This change would change that mechanism in Hawaii's law preemptively. Instead of basing the matching funds mechanism on the non-participating candidate's fund raising, participating candidates could instead collect small contributions of \$15.00 (this amount is set low because the pilot is for county council races), which would be matched by 400% by the state. Participating candidates could raise up to twice the amount of the initial allotment of money.

2. Raising the cap from \$300,000 to \$560,000: While the Big Island pilot program used under \$150,000 this past election cycle (from the HECF); if it had gone over the \$300,000 cap, it would have been very problematic for the CSC and the candidates. For this reason, it makes sense to set the cap at a higher, safer amount. The \$560,000 mark would be approximately enough money for two publicly funded candidates in all nine Big Isle county council districts.

3. With the primary elections moving back one month next year, candidates will have even less time to try to qualify for public funds, which is why we moved back that date from January to November.

4. Since the Big Island pilot program is a relatively minor amount of money (\$150,000 every two years), we're removing the requirement for the HECF to have \$3.5 million before the pilot can run. In the best interest of the pilot program and the candidates who use it, we should remove this requirement.

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 16, 2011 2:17 PM
To: JUDtestimony
Cc: sgd8@hawaiiantel.net
Subject: Testimony for HB1575 on 2/17/2011 4:00:00 PM

Testimony for JUD 2/17/2011 4:00:00 PM HB1575

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Susan Dursin
Organization: Hawai`i County League of Women Voters
Address:
Phone:
E-mail: sgd8@hawaiiantel.net
Submitted on: 2/16/2011

Comments:

The Hawai`i County League of Women Voters strongly supports HB 1575 as written. Arizona's comprehensive public funding law, which was the model for Act 244 in Hawai`i, may be struck down by the U.S. Supreme Court. Changing the matching funds mechanism is crucial to the ongoing success of this pilot program.

Its success in 2010 is undeniable, with both incumbents and challengers being elected in a way that frees them from debt to big money contributors. It also frees them from the rigors of raising campaign dollars, giving them time to hear their would-be constituents.

In 2010 we were quite anxious that the \$300,000 cap would be reached. It was not, but since the money is available in the HECF, it would remove a real concern to have the cap set at \$560,000. This would cover the possibility of two candidates in each council district.

Finally, it is imperative that candidates be given more time to qualify for public funds. Many candidates in 2010 simply ran out of time, and challengers who did qualify found they had a very short time to campaign for the primary. The proposed November start date makes sense.

Please approve HB1575 as written.

Respectfully,
Susan Dursin
Hawai`i County LWV Co-president



16 February 2011

To Committee on Judiciary, Rep. Gilbert S.C. Keith-Agaran, Chair,

I would like to take this time to introduce Ka'Mai Hawaii, LLC and offer our expertise for HB 1225. Ka'Mai Hawaii, LLC is a local company governed by a board made up of local businessmen and women. For the last six years we have been contracted by the US Navy to manage and operate their Games Night Program at Pearl Harbor. Bringing over 2 million dollars to their MWR programs and activities. Management at Ka'Mai Hawaii has over 20 years of gaming experience with an emphasis in Bingo and is continually working to keep up with the ever changing gaming technology.

We have long established relationships with multiple worldwide bingo and gaming suppliers and have also managed successful operations in Guam, with the Army and continue to work with the Air Force to help them promote and establish successful bingo operations as well as distribute gaming products to them.

If I can be of any assistance to you please feel free to contact me at 808-375-9408 or Lorraine.McNeal@kamaicorporation.com. I look forward to hearing from you.

Mahalo,

A handwritten signature in black ink that reads "Lorraine McNeal". The signature is written in a cursive, flowing style.

Lorraine J. McNeal
President

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Monday, February 14, 2011 11:13 AM
To: JUDtestimony
Cc: paul.mckimmy@gmail.com
Subject: Testimony for HB1575 on 2/17/2011 4:00:00 PM

Testimony for JUD 2/17/2011 4:00:00 PM HB1575

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Paul McKimmy
Organization: Individual
Address:
Phone:
E-mail: paul.mckimmy@gmail.com
Submitted on: 2/14/2011

Comments:

This bill strengthens a great concept that is sorely needed in Hawaii - a clear and reasonable method to provide candidates to elected office an alternative to taking money from special interests.

Feb. 15, 2011

To: COMMITTEE ON JUDICIARY Rep. Gilbert S.C. Keith-Agaran, Chair Rep. Karl Rhoads,
Vice Chair
Rep. Tom Brower Rep. Rida T.R. Cabanilla Rep. Mele Carroll Rep. Robert N. Herkes Rep. Ken Ito Rep.
Sylvia Luke Rep. Angus L.K. McKelvey
Rep. Hermina M. Morita Rep. Blake K. Oshiro Rep. Joseph M. Souki Rep. Clift Tsuji
Rep. George R. Fontaine Rep. Barbara C. Mammoto Rep. Cynthia Thielen

From: Peter Ehrhorn

Re: HB 1575
RELATING TO CAMPAIGN SPENDING. Amends Hawaii public funding pilot project to raise the
program cap, to repeal the requirement of a minimum find amount, to extend the period for signature
collection, and clarify provision of matching finds.

Dear Representatives,

Please be advised that I support this bill and urge you to do likewise. Hawaii elections have
shrunk in participation ever since I became an adult. I remember as a kid, Hawaii had high
voter turnout. Today we have among the lowest turnout. The reason I believe is that many
believe their vote does not matter as the elections are predetermined based upon how much
money the candidates have.

I know it is difficult but elections need to be more competitive. Elections need to be free from the
influence of money, which our law attempts to do. The Roberts led Supreme Court probably will
rule against one provision in the Arizona law. HB1575 would provide a preemptive alternative to
the matching funds mechanism in the Big Island law, hopefully protecting it for the future.

Please free us from a government run by only the rich and allow competition to rule. Thank you
for your consideration to this letter.

Best regards,

Erick Peter Ehrhorn

254 Kaha St.

Kailua, Hawaii 96734

COMMITTEE ON JUDICIARY
Rep. Gilbert S.C. Keith-Agaran, Chair
Rep. Karl Rhoads, Vice Chair

DATE: Thursday, February 17, 2011
TIME: 4:00 PM
PLACE: Conference Room 325

TESTIMONY IN STRONG SUPPORT OF HB1575 RELATING TO CAMPAIGN SPENDING

Aloha Chair Keith-Agaran, Vice Chair Rhoads, and Members of the Senate JDL Committee:

I am testifying in strong support of House Bill 1575. This bill would update and improve upon Act 244, the comprehensive public funding of elections for Hawai'i County Council races.

In 1978, Hawai'i voters and delegates were visionary when they created the partial public funding program in Hawai'i. Unfortunately, this program is now ineffective and outdated, but the need for a public funding option for elections is more relevant than ever before.

With Act 244 in 2008, Hawai'i became the 9th state in the country to enact a form of comprehensive public financing of elections. This public funding option for Big Island county council candidates is a step in the right direction and we should keep improving it. While the Supreme Court may rule against one provision in the Arizona law, after which Act 244 was modeled, HB 1575 would provide a preemptive alternative to the matching funds mechanism in the Big Island law; thereby protecting it for the future.

Ultimately I would like to see a comprehensive public financing system expanded into a permanent program that would apply to all elections in the state. Comprehensive public financing of campaigns frees candidates to re-connect with the voters in their district while helping to reduce the effects of special interest money.

Until then, please help to improve upon publicly financed elections for Hawai'i County Council races by supporting HB 1575.

Thank you for this opportunity to testify.

Rachel S. Orange

Testimony submitted to the

Committee on Judiciary

Hearing Date: Thursday, 2/17/2011

Time: 4:00 p.m.

Place: Conference Room 325

Number of Copies: I am unable to obtain this information. It is not on the hearing notice or Committee on Judiciary page.

TESTIFIER: Beppie J. Shapiro, representing

ORGANIZATION: The League of Women Voters of Hawai'i

SUBJECT: HB1575 RELATING TO CAMPAIGN SPENDING.

POSITION: SUPPORT

Testimony

Chair Keith-Agaran, Vice-Chair Rhoads, Members of the Committee:

This is an exciting time for comprehensive public financing of political campaigns in Hawai'i (supported by 74% of us, according to a 2005 survey by AARP of voting age Hawai'i residents). In November, the first election cycle under the pilot project established by the 2009 Hawai'i legislature took place. The program seems to have worked well: 16 potential candidates registered to initiate the process of qualification for public funds; 8 qualified (collecting 200 \$5.00 donations from registered voters in their district, among other requirements) and received public funding, 4 of whom (3 incumbents) won election to the Hawai'i County Council. The Campaign Spending Commission appears to have carried out its responsibilities well and without exceeding available funds.

HB1575 proposes to improve some aspects of the bill following the initial experience of our own pilot, and national comprehensive public campaign funding strategies.

For those of you who missed the arguments which led the 2009 Legislature to create the pilot of comprehensive public campaign

financing for the Big Island County Council over 3 election cycles, my own "take" on why this kind of election reform is necessary:

1. Campaigns, as you all know better than I, are becoming more and more expensive.
2. Fund-raising to meet those expenses can eat up more and more of candidates and elected official's time, replacing time spent investigating needs in their districts and listening/responding to constituents and colleagues.
3. Very often, tapping major businesses/unions/organizations for large donations seems to be the way expenses are met.
4. At least in the public eye (and a cursory examination of enacted legislation does not contradict the perception), interests of large businesses/organizations are predominant over public and long term interests.
5. Comprehensive public financing provides an equitable way to level the playing field for voters. (The partial public financing system adopted by an earlier Legislature is no longer useful for candidates as again, you all know better than I).

I urge you to support HB1575.

Thank you for the opportunity to present this testimony. I regret I'm unable to present it in person.

Beppie J. Shapiro
League of Women Voters of Hawai`i

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 16, 2011 11:57 PM
To: JUDtestimony
Cc: merway@hawaii.rr.com
Subject: Testimony for HB1575 on 2/17/2011 4:00:00 PM

Testimony for JUD 2/17/2011 4:00:00 PM HB1575

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Marjorie Erway
Organization: Individual
Address:
Phone:
E-mail: merway@hawaii.rr.com
Submitted on: 2/16/2011

Comments:

This is very important to Hawaii. Please support fair elections!!
Mahalo big time!

JUDtestimony

From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, February 16, 2011 3:49 PM
To: JUDtestimony
Cc: welcomeman@hotmail.com
Subject: Testimony for HB1575 on 2/17/2011 4:00:00 PM

Testimony for JUD 2/17/2011 4:00:00 PM HB1575

Conference room: 325
Testifier position: support
Testifier will be present: No
Submitted by: Matthew McNall
Organization: Individual
Address:
Phone:
E-mail: welcomeman@hotmail.com
Submitted on: 2/16/2011

Comments:

JUDtestimony

From: Noelie Rodriguez [noelie@hawaii.edu]
Sent: Wednesday, February 16, 2011 4:23 PM
To: JUDtestimony
Subject: HB 1575

5

Representative Gilbert Keith Agaran, Chairperson Representative Karl Rhoades, Vice Chair
Committee on the Judiciary

Dr. Noelie Rodriguez
P. O. Box 5
Ninole, HI

Thursday, February 17th 4:00pm

Every feature of HB 1575 strengthens and improves Big Island Pilot Program on Clean Elections and deserves passage. This is a bill that deserves full support because Clean Elections is a reform that the people in Hawaii have rallied around with great enthusiasm. Our people understood it. Our people used it. And now it may be a model program for the nation. Thus the people of Hawaii want it to be strengthened and protected. HB 1575 accomplishes these goals.

The recent scandal showing the connections between Supreme Court Justices Scalia and Thomas with the Koch Brothers' revealed the illegitimacy and [corporate] bias of our Federal judiciary's creation of last year's extremely controversial Citizen's United Case. These two justice's failure to self-disclose and the lies they told to cover up their conflict of interest--delegitimizes their motives and actions regarding campaign finance laws. But as the highest court in the land--they are almost above the law. This puts the very ground of America's democracy in peril. HB 1575 seeks to shield our pilot program to protect democracy from the corruption within the Robert's Court.

HB1575 is just what we need--especially now that the very controversial Citizens United case opened the flood gates to special interest money in the last national election and people are more aware than ever of the need for this critically important protection of democracy. Our pilot program is now one of the few role models of campaign finance legislation for the whole nation. The requirement that there should be a \$3,500,000 balance in the fund should be lifted, and the caps on the cost of the program should be raised because the main thing is to make the Big Island Clean Elections Pilot program succeed--not only for our sake, but for the good of our country.

I joined with the League of Women Voters, several unions, the Sierra Club, Common Cause, and many other groups as well as over 3,000 individuals on the Big Island who signed the petition to institute this campaign finance reform. In this last election we developed the "Progressive Endorsements" of Big Island candidates based in good part on the positions legislators took on this important reform. The reason it was designed as a "pilot" program was precisely to be able to "tweek" it to make it better--to adapt it. The money to fund it is not negotiable because the fund was created by the voluntary \$3 check off by our State's tax payers.

Please support the Big Island's popular campaign finance program and our position of leadership in the nation by helping to strengthen this critically important program. For all these reasons--HB 1575 should be passed in full.